

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PERRY LEE LEWIS,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

Case No. C04-5706RBL

REPORT AND
RECOMMENDATION

Noted for September 2, 2005

Petitioner is a state prisoner currently incarcerated at the Stafford Creek Correction Center, located in Aberdeen, Washington. This matter is before the Court on petitioner's petition for writ of *habeas corpus* filed with this court pursuant to 28 U.S.C. § 2254. After a careful review of the record, the undersigned submits the following report and recommendation, recommending the court deny the petition as deficient.

DISCUSSION

On February 16, 2005, the court ordered plaintiff to file by no later than March 18, 2005, an amended petition for writ of *habeas corpus* naming a proper respondent and showing that his grounds for federal relief have been properly exhausted in state court, or show cause why this matter should not be dismissed. (Dkt. #5). On April 5, 2005, the court granted petitioner's motion for a sixty-day continuance (Dkt. #6), and ordered him to file his amended petition by no later than June 5, 2005. (Dkt. #7).

On June 7, 2005, petitioner filed a motion to amend writ of *habeas corpus*, in which he responded to the court's order to show cause, but did not file an amended petition as the court required him to do.

1 (Dkt. #8). Nevertheless, the court granted petitioner another opportunity to cure the deficiencies in his
2 petition by filing by no later than July 14, 2005, an amended petition naming a proper respondent and
3 showing that his grounds for federal relief had been properly exhausted in state court. The court further
4 warned petitioner that if he failed to do so, the court would recommend dismissal of this matter. To date,
5 however, petitioner still has not filed an amended petition.

6 CONCLUSION

7 Because petitioner has not responded to the court's order to show cause directing him to file an
8 amended petition curing the deficiencies in his petition, the court should deny that petition.

9 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 72(b),
10 the parties shall have ten (10) days from service of this Report and Recommendation to file written
11 objections thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those
12 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit
13 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set this matter for consideration on **September 2,**
14 **2005**, as noted in the caption.

15 DATED this 8th day of August, 2005.

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19 Karen L. Strombom
20 United States Magistrate Judge
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